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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE
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10 UNITED STATES OF AMERICA,
11

12 Plaintiff,

13 v.
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15 JAYLAN AMIR THOMAS,
16

17 Defendant.

18 CASE NO. CR23-056-RSM
19

20 ORDER DENYING MOTION TO
21 REDUCE SENTENCE
22

23 This matter comes before the Court on Defendant Jaylan Amir Thomas' Motion to
24 Reduce Sentence. Dkt. #76. Defendant seeks a reduced sentence pursuant to 18 U.S.C. §
25 3582(c)(2) and Amendment 821, Part A (Status Points) to the Sentencing Guidelines. *Id.* The
26 Court has reviewed the responsive briefing from the Government, Dkt. #80. No reply brief was
27 filed.

28 In December 2023, Mr. Thomas entered a guilty plea to Wire Fraud. Dkt. #39. Mr.
29 Thomas led a scheme to steal construction equipment from a home improvement store by renting
30 the equipment using false identification, and instead of returning it, selling the equipment on
31 OfferUp and Facebook Marketplace. Leading a team of at least five other people, Mr. Thomas
32 and his crew stole more than 480 construction equipment pieces worth over \$800,000.

1 Applying the 2023 Sentencing Guidelines Manual, Probation calculated Mr. Thomas'
2 Total Offense Level as 22. *See* Presentence Investigation Report, Dkt. #52. Mr. Thomas had
3 three prior criminal convictions that scored a total of four criminal history points. He was not
4 assessed any "status points" for being under a criminal justice sentence at the time of his instant
5 offense because his criminal history points were less than seven.

6 At the sentencing hearing on March 29, 2024, this Court imposed a custodial sentence
7 within the applicable sentencing range of 60 months. Dkts. #64 and #65. Mr. Thomas continues
8 to serve this sentence, with a BOP projected release date in August 2027.

9 Pursuant to 18 U.S.C. § 3582(c)(2), a district court has authority to reduce a defendant's
10 sentence under certain limited circumstances:

11 [I]n the case of a defendant who has been sentenced to a term of
imprisonment based on a sentencing range that has subsequently
12 been lowered by the Sentencing Commission pursuant to 28 U.S.C.
994(o), upon motion of the defendant or the Director of the Bureau
13 of Prisons, or on its own motion, the court may reduce the term of
imprisonment, after considering the factors set forth in section
14 3553(a) to the extent that they are applicable, if such a reduction is
consistent with applicable policy statements issued by the
15 Sentencing Commission.

16 In Section 1B1.10 of the Guidelines, the Sentencing Commission has identified the amendments
17 which may be applied retroactively pursuant to this authority, including the amendments below,
18 and has articulated the policy and proper procedure for implementing those amendments.

19 In Part A to Amendment 821, the Sentencing Commission altered the "status points"
20 provision regarding criminal history, which now appears in Section 4A1.1(e) in the 2023 Edition
21 of the Sentencing Guidelines. The amended provision states:

22 Add 1 point if the defendant (1) receives 7 or more points under
subsections (a) through (d), and (2) committed the instant offense
23 while under any criminal justice sentence, including probation,
parole, supervised release, imprisonment, work release, or escape
status.

1 Thus, a person who otherwise presents seven criminal history points or more now receives one
 2 additional “status” criminal history point, instead of the two points that were awarded in the
 3 previous version of this subsection, while a person who otherwise presents six criminal history
 4 points or fewer receives no status points.

5 In Part B, Subpart 1 to Amendment 821 to the Sentencing Guidelines, the Sentencing
 6 Commission added what now appears in Section 4A1.1(c), providing a two offense-level
 7 reduction for many offenders who present zero criminal history points.

8 The Court finds that the Status Points amendment does not reduce Mr. Thomas’ range
 9 because he was not originally assessed any status points for being under a criminal justice
 10 sentence. All four of his criminal history points were assessed directly based on his prior
 11 convictions pursuant to USSG § 4A1.1(a)-(c). Furthermore, the Zero-Point Offender is also
 12 inapplicable because Defendant fails to meet the first requirement: “(1) the defendant did not
 13 receive any criminal history points from Chapter Four, part A.” As noted above, Mr. Thomas
 14 had three prior convictions that scored a total of four criminal history points. The Court therefore
 15 agrees with the Government that Mr. Thomas is not eligible for any reduction in sentence because
 16 the amendments have no effect on his sentencing range. Thus, this analysis need not proceed
 17 past the first step because the Court lacks jurisdiction to grant any reduction. *See United States*
 18 *v. Wesson*, 583 F.3d 728, 730-31 (9th Cir. 2009).¹

19 Defendant Thomas offers no argument to these points in his Motion or in a reply brief.
 20 The Court need not consider the § 3553(a) factors. Given the above, appointment of counsel is
 21 unwarranted.

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 23 ¹ USSG § 1B1.10(a)(2) provides that “[a] reduction in the defendant’s term of imprisonment is not consistent with
 24 this policy statement and therefore is not authorized under 18 U.S.C. § 3582(c)(2) if . . . (A) none of the amendments
 listed in subsection (d) is applicable to the defendant; or (B) an amendment listed in subsection (d) does not have
 the effect of lowering the defendant’s applicable guideline range.”

1 Having considered Defendant's Motion, the Government's Response, and the remainder
2 of the record, the Court hereby finds and ORDERS that Defendant Jaylan Amir Thomas' Motion
3 to Reduce Sentence, Dkt. #76, is DENIED.

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5 DATED this 20th day of November, 2024.

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7 RICARDO S. MARTINEZ
8 UNITED STATES DISTRICT JUDGE
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